

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 98-353-C - ORDER NO. 98-855

NOVEMBER 2, 1998

IN RE:	Application of Level 3 Communications, LLC)	ORDER	✓MR
	for a Certificate of Public Convenience and)	APPROVING	
	Necessity to Provide Local Exchange)	CERTIFICATE	
	Telecommunications Services and Intrastate)		
	Interexchange Services within the State of)		
	South Carolina.)		

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of Level 3 Communications, LLC ("Level 3" or "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold and facilities-based intrastate interexchange and local exchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §§ 58-9-280 and 58-9-520 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed Level 3 to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Level 3 complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Prior to the hearing, counsel for SCTC filed a Stipulation in which Level 3 stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Level 3 provided written notice of its intent prior to the date of the intended service. Level 3 also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Level 3 agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to Level 3's Application provided the conditions contained in the Stipulation are met. At the hearing on its Application, Level 3 offered the Stipulation into evidence. The Stipulation is approved and attached hereto as Exhibit 1.

A hearing was commenced on October 7, 1998, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. Level 3 was represented by Faye A. Flowers, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Sue Weiske appeared and offered testimony in support of Level 3's application. The record reveals that Level 3 is a limited liability company organized under the laws of the State of Delaware. According to Ms. Weiske, Level 3 seeks authority to provide both resold and facilities-based intrastate interexchange and local exchange telecommunications services throughout South Carolina. According to the record, Level

3 intends to provide local exchange and interexchange services through the use of facilities that Level 3 will deploy, through the resale of services and facilities provided by certified carriers, or through some combination thereof. The witness stated that Level 3 will provide high quality service on a full-time basis. Level 3 intends to offer interexchange services, including inbound and outbound intraLATA and interLATA services. Level 3's local exchange services will include, but not be limited to, local exchange access services to single-line and multi-line customers (including the basic access lines, direct inward-outward PBX trunk service, Centrex services, and ISDN), local exchange usage services to customers of Level 3's end-user access line services, and switched and special carrier access services to other common carriers.

Ms. Weiske stated that Level 3 is authorized to provide telecommunications services in 16 states and the District of Columbia. Further, Ms. Weiske stated that Level 3 had never had authority denied in any jurisdiction where Level 3 sought authority nor had Level 3 ever been fined, sanctioned, or had authority revoked in any jurisdiction where Level 3 had obtained authority.

Ms. Weiske explained that Level 3 possesses the technical, financial, and managerial resources and abilities to provide interexchange and local exchange telecommunications services. Ms. Weiske explained that Level 3 is financially qualified to provide telecommunications services in South Carolina. Ms. Weiske testified that Level 3 will rely on the substantial financial resources of its parent company, Level 3 Communications, Inc., to provide initial capital investment and to fund operating losses during the start-up phase. Ms. Weiske offered that Level 3's financial reports, attached to the Application, demonstrate that Level 3 is financially qualified to provide the

telecommunications services for which it seeks authority. In support of Level 3's managerial and technical expertise, Ms. Weiske testified that Level 3's management team has more than 40 years' experience in the telecommunications industry.

Ms. Weiske opined that Level 3's entry into the telecommunications industry in South Carolina would further the public interest by expanding the availability and variety of high-quality local exchange services. Additionally, Level 3 will ultimately offer customers the convenience of one-stop shopping for both their local and long distance telecommunications needs. Moreover, the presence of Level 3 in the South Carolina telecommunications market will increase the incentives for the incumbent local exchange companies to reduce their prices, operate more efficiently, offer more innovative services, and improve their quality of service.

Ms. Weiske testified that the Company would operate in accordance with the Commission rules, regulations, guidelines and Commission Orders. Ms. Weiske also stated that Level 3 would support universally available telephone service at affordable rates. Ms. Weiske also stated that approval of Level 3's application would not adversely impact affordable local exchange service, and no party of record offered any evidence that the provision of local exchange service by Level 3 would adversely affect local rates. Ms. Weiske specifically stated that the services Level 3 will provide will meet the service standards of the Commission. Additionally, Ms. Weiske explained Level 3's services, customer service operations, and marketing procedures.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Level 3 is a limited liability company organized under the laws of the State of Delaware.
2. Level 3 wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that Level 3 possesses the technical, financial, and managerial resources sufficient to provide the service requested.
4. The Commission finds that Level 3's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997).
5. The Commission finds that Level 3 will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4) (Supp. 1997).
6. The Commission finds that Level 3 will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2) (Supp. 1997).
7. The Commission finds that the provision of local exchange service by Level 3 "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) (Supp. 1997).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Level 3 to provide competitive intrastate local exchange services, both resold and facilities-based, in South Carolina, subject to the terms of the Stipulation between Level 3 and SCTC. Level 3 is also authorized to provide resold and facilities-based intrastate interexchange service in

South Carolina by providing intrastate interLATA service and by originating and terminating toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. Level 3 shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings, including a price list of its services, conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. The Commission adopts a rate design for Level 3 for its long distance services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

With regard to its long distance services rates, Level 3 shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Level 3 shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16,

1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 1997).

4. If it has not already done so by the date of issuance of this Order, Level 3 shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Level 3 is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Level 3 shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Level 3 changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Level 3 shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. Level 3 shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

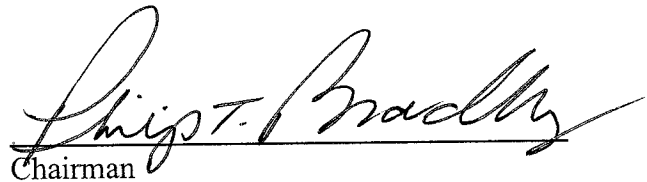
10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Level 3 shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

11. Level 3 shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition. Further, Level 3 is directed to obey and operate in compliance with the Rules and Regulations promulgated by the Commission, unless a Rule or Regulation is specifically waived by the Commission.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NOS. 98-353-C - ORDER NO. 98-855
NOVEMBER 2, 1998
ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

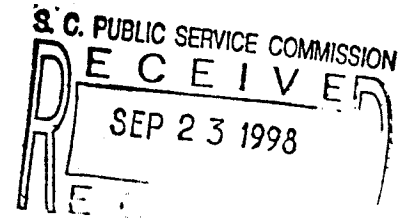
E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 98-353-C



Re: Application of Level 3 Communications, LLC
for a Certificate of Public Convenience and Necessity
to Provide Resold and Facilities-Based Intrastate
Interexchange and Local Exchange Tele-
communications Services in South Carolina

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Level 3 Communications, LLC ("Level 3") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Level 3's Application. SCTC and Level 3 stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Level 3, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Level 3 stipulates and agrees that any Certificate which may be granted will authorize Level 3 to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Level 3 stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Level 3 stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Level 3 provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Level 3 acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Level 3 stipulates and agrees that if, after Level 3 gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Level 3 will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Level 3 acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service

which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Level 3 agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Level 3 hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 23rd day of September, 1998.

Level 3 Communications, LLC

Lane A. Flowers
Attorney for Level 3
Communications, LLC

South Carolina Telephone Coalition:

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M. John Bowen, Jr.
Margaret M. Fox
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29201
(803) 799-9800
Attorneys for the South Carolina
Telephone Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company